



भारत का राजपत्र

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EXTRAORDINARY

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PART II—Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या सी जाती है जिससे कि यह प्रलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation.

LOK SABHA

The following Bill was introduced in Lok Sabha on the 5th December, 1968:—

BILL No. 109 OF 1968

A Bill to provide for the maintenance of certain essential services
and the normal life of the community.

Be it enacted by Parliament in the Nineteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Essential Services Maintenance Act, 1968. Short title,
extent and
duration

(2) It extends to the whole of India:

Provided that it shall not apply to the State of Jammu and Kashmir except to the extent to which the provisions of this Act relate to Union employees.

(3) It shall cease to have effect on the expiry of five years from the date of commencement of this Act except as respects things done or omitted to be done before such cesser of operation of this Act, and section 6 of the General Clauses Act, 1897, shall apply upon ^{to of 1897.} such cesser of operation of this Act as if it had then been repealed by a Central Act.

Definitions.

2. (1) In this Act,—

(a) "essential service" means—

- (i) any postal, telegraph or telephone service;
- (ii) any railway service or any other transport service for the carriage of passengers or goods by land, water or air;
- (iii) any service connected with the operation or maintenance of aerodromes, or with the operation, repair or maintenance of aircraft;
- (iv) any service connected with the loading, unloading, movement or storage of goods in any port;
- (v) any service connected with the clearance of goods or passengers through the customs or with the prevention of smuggling;
- (vi) any service in any mint or security press;
- (vii) any service in any defence establishment of the Government of India;
- (viii) any service in connection with the affairs of the Union, not being a service specified in any of the foregoing sub-clauses;

(ix) any other service connected with matters with respect to which Parliament has power to make laws and which the Central Government being of opinion that strikes therein would prejudicially affect the maintenance of any public utility service, the public safety or the maintenance of supplies and services necessary for the life of the community or would result in the infliction of grave hardship on the community, may, by notification in the Official Gazette, declare to be an essential service for the purposes of this Act;

(b) "strike" means the cessation of work by a body of persons employed in any essential service acting in combination or a concerted refusal or a refusal under a common understanding of any number of persons who are or have been so

employed to continue to work or to accept employment, and includes—

(i) refusal to work overtime where such work is necessary for the maintenance of any essential service;

(ii) any other conduct which is likely to result in, or results in, cessation or substantial retardation of work in any essential service.

(2) Every notification issued under sub-clause (ix) of clause (a) of sub-section (1) shall be laid, as soon as may be, after it is issued before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the notification or both Houses agree that the notification should not be issued, the notification shall thereafter have effect only in such modified form or be of no effect as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under or by virtue of that notification.

3. (1) If the Central Government is satisfied that in the public interest it is necessary or expedient so to do, it may, by general or special Order, prohibit strikes in any essential service specified in the Order.

(2) An Order made under sub-section (1) shall be published in such manner as the Central Government considers best calculated to bring it to the notice of the persons affected by the Order.

(3) An Order made under sub-section (1) shall be in force for six months only, but the Central Government may, by a like Order, extend it for any period not exceeding six months if it is satisfied that in the public interest it is necessary or expedient so to do.

(4) Upon the issue of an Order under sub-section (1),—

(a) no person employed in any essential service to which the Order relates shall go or remain on strike;

(b) any strike declared or commenced, whether before or after the issue of the Order, by persons employed in any such service shall be illegal.

4. Any person who commences a strike which is illegal under this Act or goes or remains on, or otherwise takes part in, any such strike shall be punishable with imprisonment for a term which may

(b) the term of office of the members of the Advisory Committee, the procedure for their election and the manner of filling casual vacancies in the Advisory Committee;

(c) the travelling and other allowances payable to the members of the Advisory Committee;

(d) the procedure for holding the meetings of the **Advisory Committee** and for transaction of business thereat.

(3) The Advisory Committee may, with the previous approval of the Central Government, make regulations for all or any of the following matters, namely:—

(a) the constitution, powers and duties of Regional Committees and of sub-committees constituted by the **Advisory Committee** or any Regional Committee;

(b) the method of election of candidates for Regional Committees and sub-committees*, their eligibility, term of office and method of filling casual vacancies;

(c) the procedure for convening meetings and transaction of business by Regional Committees and sub-committees*;

(d) the appointment of officers and other employees of the **Advisory Committee** and of Regional Committees or sub-committees constituted by or under the **Advisory Committee** or any Regional Committee and the terms and conditions of their service including travelling and other allowances;

(e) such other matters pertaining to procedure as are not inconsistent with the provisions of this Act or of rules made thereunder,

and may, from time to time, with the previous approval of the Central Government, add to, amend or vary any such regulations.

(4) The regulations made by the Tariff Committee of the General Insurance Council under section 64O as they were in force immediately before the commencement of the Insurance (Amendment) Act, 1968, shall, after such commencement, continue to be in force until rules are made by the Central Government under sub-section (1) and immediately after such rules have come into effect, the regulations aforesaid shall cease to be valid.

(5) The Controller of Insurance shall be in direct charge of the establishment of the **Advisory Committee** and the **Secretary of the Advisory Committee** shall work under his direction and control.

64UC. (1) The Advisory Committee may, from time to time and to the extent it deems expedient, control and regulate the rates, advantages, terms and conditions that may be offered by insurers in respect of any risk or of any class or category of risks, the rates, advantages, terms and conditions of which, in its opinion, it is proper to control and regulate, and any such rates, advantages, terms and conditions shall be binding on all insurers:

Provided that the Controller may, with the previous approval of the Central Government, permit any insurer to offer, during such period (being not more than two years but which may be extended by periods of not more than two years at a time) and subject to such conditions as may be specified by him, rates, advantages, terms or conditions different from those fixed by the Advisory Committee in respect of any particular category of risks, if he is satisfied that such insurer generally issues policies only to a restricted class of the public or under a restricted category of risks.

(2) In fixing, amending or modifying any rates, advantages, terms or conditions, relating to any risk, the Advisory Committee shall try to ensure, as far as possible, that there is no unfair discrimination between risks of essentially the same hazard, and also that consideration is given to past and prospective loss experience:

Provided that the Advisory Committee may, at its discretion, make suitable allowances for the degree of credibility to be assigned to the past experience, including allowances for random fluctuations and may also, at its discretion, make suitable allowances for future fluctuations and unforeseen future contingencies, including hazards of conflagration or catastrophe or both.

(3) Every decision of the Advisory Committee shall be valid only after and to the extent it is ratified by the Controller, and every such decision shall take effect from the date on which it is so ratified by the Controller, or, if the Controller so orders in any case, from such earlier date as he may specify in the order.

(4) The decisions of the Advisory Committee in pursuance of the provisions of this section shall be final.

(5) Where an insurer is guilty of breach of any rate, advantage, term or condition fixed by the Advisory Committee, he shall be deemed to have contravened the provisions of this Act:

Provided that instead of proceeding against the insurer for such contravention, the Controller may, if the insurer removes

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Item (a) of clause 2(1) of the Bill seeks to define "essential service". Sub-items (i) to (viii) of this item enumerate certain essential services. As it is not possible to enumerate all essential services, sub-item (ix) of this item empowers the Central Government to declare by notification in the Official Gazette certain other services also to be essential services for the purposes of the proposed legislation. The sub-item clearly brings out the criteria on the basis of which any service may be declared thereunder to be an essential service. Thus a service cannot be declared to be an essential service under the said sub-item (ix), unless the service is connected with matters with respect to which Parliament has power to make laws and unless the Central Government is of opinion that strikes therein would prejudicially affect the maintenance of any public utility service, the public safety or the maintenance of supplies and services necessary for the life of the community or would result in the infliction of grave hardship on the community. Under clause 2(2) of the Bill, any notification under the said sub-item (ix) has to be laid before Parliament in the same way as rules made under an enactment. In the circumstances, the delegation of legislative power is of a normal character.

S. L. SHAKDHER,
Secretary.